



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

*Hand Delivered*

Klenz Brothers Diesel LLC  
9341 West Law Road  
North East, PA 16428

MAR 26 2018

Re: Requirement to Maintain and Make Available Certain Information, Records, Parts,  
and Components

The United States Environmental Protection Agency (EPA) hereby requires the above-named entity (henceforth Klenz or you) to maintain and make available information as part of an EPA investigation to determine compliance with section 203 of the Clean Air Act (Act), 42 U.S.C. § 7522.

We issue this Request for Information under sections 114(a) and 208(a) of the Act, 42 U.S.C. §§ 7414(a) and 7542(a). Under these statutes, the EPA may require any person who is subject to the vehicle and engine requirements of the Act, 42 U.S.C. §§ 7521–7554, to establish, maintain, and make available information that the EPA may reasonably require to determine whether the person has acted in compliance with the Act and the regulations promulgated thereunder.

Under this authority and by this letter you are required to maintain and make available at the above-listed addresses, for inspection by EPA personnel on or before May 31, 2018, all information, records, parts, components, and devices in your possession, custody, or control related in any way to the following:

- (a) The manufacturing, sale, offering for sale, purchase, repair, or installation of any part or component of or for any motor vehicle or motor vehicle engine that changes, affects, or bypasses, or can change, affect, or bypass any element of design related to emissions of air pollution, including but not limited to any: diesel particulate filter system; exhaust gas recirculation system; catalytic converter system; on-board diagnostic system; selective catalytic reduction system; and sensors, signals, or records related to these systems.
- (b) The manufacturing, sale, offering for sale, purchase, repair, or installation of any part or component of or for any motor vehicle or motor vehicle engine that changes, affects, or bypasses, or can change, affect, or bypass that vehicle's or engine's electronic control module (ECM) or the effect of its operation. This includes but is not limited to any part or

component that relates to fueling strategy or on-board diagnostic systems. This includes but is not limited to all information and records related to the purchase, receipt, handling, installation, resale, and maintenance of programmers and tuners, including parts, components, devices, and software.

In sum, you are required to leave in place at the listed facility locations listed above all information, records, parts, and components that EPA may reasonably inspect on or before the date stated in the third paragraph of this letter, to determine compliance with the vehicle and engine requirements of the Clean Air Act. However, with respect to parts or components at your facility that are under your custody but that you do not own at the time of receipt of this letter, this letter does not require you to hold such parts or components at your facilities. This letter also does not require you to maintain parts or components that you would otherwise release from your facilities due to the ordinary course of business.

With respect to records, documents, or files covered by or responsive to this letter (paper or electronic), you must preserve such records, documents, or files to make them available for inspection regardless of your normal business practices regarding record retention. This letter in no way affects any preexisting requirements under the Act and related regulations to keep and maintain information. This paragraph pertains even to records concerning parts or components that you ship, deliver or release after receipt of this letter.

Failure to maintain and make available this information may result in the initiation of an administrative or civil judicial action under section 205 of the Act, 42 U.S.C. § 7524. In any such action, you may be subject to a civil penalty of up to \$46,192 per day for each day that you fail to maintain and make available this information.

You are entitled to assert a business confidentiality claim covering all or part of the information you provide to the EPA in response to this Request for Information, in accordance with the procedures described in the Confidentiality of Business Information (“CBI”) regulations, 40 C.F.R. Part 2, Subpart B. However, no CBI claim may be made with respect to emissions data as defined at 40 C.F.R. § 2.301(a)(2). If you do not assert a CBI claim on information you provide to the EPA, the EPA may provide such information to the public without further notice to you.

Any questions concerning this letter and its requirements should be directed to the EPA attorney handling this matter, David Alexander at (202) 564-2109 or [alexander.david@epa.gov](mailto:alexander.david@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Evan Belser', with a stylized, looping flourish at the end.

Evan Belser, Chief  
Vehicle and Engine Enforcement Branch  
Air Enforcement Division

## **Appendix A**

### **Confidential Business Information**

You may assert a business confidentiality claim covering all or part of the information you provide in response to this Request for Information for any business information entitled to confidential treatment under Section 208(c) of the CAA, 42 U.S.C. § 7542, and 40 C.F.R. Part 2, Subpart B. Under Section 208(c) of the CAA, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, Subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” See 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2, Subpart B. EPA will construe your failure to furnish a business confidentiality claim with your response to this Request for Information as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this Request for Information. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e), (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, (3) the information is not and has not been reasonably obtainable by legitimate means without your consent, and (4) the disclosure of the information is likely to cause substantial harm to your business competitive edge. See 40 C.F.R. §§ 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7542(c); 40 C.F.R. § 2.301(e). If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this Request for Information, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following requests with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph, and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential (*e.g.*, until a certain date, until the occurrence of a specified event, or permanently)? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.
3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effect. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding requests? If so, you may provide such additional explanation.

You must furnish comments to the above requests within 10 days after providing information to the EPA if you have claimed any information as business confidential. *See* 40 C.F.R.

§ 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Amelie Isin, Environmental Engineer  
U.S. Environmental Protection Agency Region III  
Air Protection Division  
1650 Arch Street  
Mail Code 3AP20  
Philadelphia, PA 19103

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your comments may be entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these requests, as provided in 40 C.F.R. § 2.203(b). Information covered by such a business confidentiality claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Section 208(c) of the CAA and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public without further notice to you.